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EXAMINER	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/829,091
Filing Date: April 20, 2004
Appellant(s): EIDSON ET AL.

Kenneth D. Springer
Reg. No. 39,843
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 24, 2010 appealing from the Office action mailed December 15, 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2001/0028313	McDonnell et al	10-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims **1-8**, **10-16**, **18-22** and **24-27** are rejected under 35 U.S.C. 102(b) as being anticipated by McDonnell et al (hereinafter, "McDonnell", U.S. Pub. No. 2001/0028313).

As per claim **10**, McDonnell discloses a method for configuring a set of distributed devices comprising:

- providing to one or more of the distributed devices, via communication subsystems of the one or more distributed devices, a set of configuration data that configures the one or more distributed devices for performing measurement/control function (paragraphs 0057-0058 and 0062); and
- diffusing the provided configuration data among the distributed devices (paragraphs 0057-0058, 0062 and 0068).

As per claim **18**, McDonnell discloses a first device, comprising:

- a measurement/control subsystem (paragraphs 0057-0058);
- means for obtaining from a remotely-located configuration data source a set of configuration data that configures a second device, spaced apart from the first device, for performing a measurement/control function (paragraphs 0057-0058 and 0062); and
- means for diffusing the configuration data from the first device to the second device (paragraphs 0057-0058 and 0062).

As per claim **24**, McDonnell discloses a measurement/control system, comprising:

- a configuration data source that provides a set of configuration data that specifies a measurement/control function (paragraphs 0059 and 0062); and
- a set of distributed devices each having means for obtaining the configuration data from the configuration data source and means for diffusing the configuration data among the distributed devices (paragraphs 0057-0058 and 0062).

As per claim **1**, McDonnell discloses:

- wherein the means for diffusing includes means for determining a relative staleness of a set of configuration data stored in the distributed devices (paragraphs 0079 and 0081).

As per claim **2**, McDonnell discloses:

- wherein the configuration data source includes a source kiosk that obtains the configuration data from an application server (paragraphs 0057-0058).

As per claim **3**, McDonnell discloses:

- wherein the configuration data source is co-located with a service provider accessible by one or more of the distributed devices (paragraphs 0057-0058).

As per claim **4**, McDonnell discloses:

- wherein the means for diffusing includes means for forming a communication channel with a kiosk (paragraphs 0057-0058).

As per claim **5**, McDonnell discloses:

- wherein the means for forming a communication channel includes means for forming a communication channel in response to a physical proximity to the kiosk (paragraphs 0068-0071).

As per claim **6**, McDonnell discloses:

- wherein the means for diffusing includes means for forming a communication channel with another of the distributed devices (paragraphs 0068-0071).

As per claim **7**, McDonnell discloses:

- wherein the means for forming a communication channel includes means for forming a communication channel in response to a physical proximity (paragraphs 0064-0066).

As per claim **8**, McDonnell discloses:

- wherein the means for diffusing includes means for determining a relative staleness of a set of configuration data stored in a kiosk and a set of configuration data stored in the distributed devices (paragraphs 0079 and 0081).

As per claim **11**, McDonnell discloses:

- wherein the step of providing includes the step of obtaining the configuration data from an application server (paragraph 0058) .

As per claim **12**, McDonnell discloses:

- wherein the step of providing includes the step of co-locating the configuration data with a service provider accessible by one or more of the distributed devices (paragraphs 0057-0058) .

As per claim **13**, McDonnell discloses:

- wherein the step of diffusing includes the step of forming a communication channel between a pair of the distributed devices and communicating the configuration data from one of the pair of distributed devices to the other of the pair of distributed devices (paragraphs 0068-0071) .

As per claim **14**, McDonnell discloses:

- wherein the step of forming a communication channel includes the step of forming a communication channel in response to a physical proximity of the pair of distributed devices to each other (paragraphs 0068-0071).

As per claim **15**, McDonnell discloses wherein the step of diffusing includes:

- forming a first communication channel between a first one of the distributed and a kiosk (paragraphs 0064-0066);
- communication the configuration data from the first distributed device and the kiosk via the first communication channel (paragraphs 0064-0066);
- forming a second communication channel between a second one of the distributed devices and the kiosk (paragraphs 0064-0066); and
- communicating the configuration data from the kiosk to the second distributed devices (paragraphs 0064-0066).

As per claim **16**, McDonnell discloses:

- wherein the step of forming the first communication channel includes the step of forming the first communication channel with the kiosk in response to a physical proximity to a physical proximity of the kiosk (paragraphs 0068-0071).

As per claim **19**, McDonnell discloses:

- wherein the means for diffusing includes means for forming a communication channel to the second distributed device (paragraphs 0064-0066).

As per claim **20**, McDonnell discloses:

- wherein the means for forming a communication channel includes means for forming a communication channel in response to a physical proximity between the first device and the one or more other distributed devices (paragraphs 0068-0071).

As per claim **21**, McDonnell discloses:

- wherein the means for diffusing includes means for forming a communication channel between the first device and a kiosk (paragraphs 0064-0066).

As per claim **25**, McDonnell discloses:

- wherein the step of diffusing includes the step of determining a relative staleness of different sets of configuration data (paragraphs 0079 and 0081).
- As per claim **26**, McDonnell discloses:
- wherein the means of diffusing includes means for determining a staleness of the configuration data (paragraphs 0079 and 0081).
- As per claim **27**, McDonnell discloses:
- where the first device is a portable wireless device, and wherein the second device is a portable wireless device (paragraph 0058).

(10) Response to Argument

Appellants argued in substance that:

(a) McDonnell does not configure one or more distributed devices for performing a measurement/control function [Appeal Brief page 6].

In response, Applicant's argument filed has been fully considered but is not persuasive.

McDonnell discloses a user setting parameters (configuration data) of a mobile entity in order for the device to perform atmospheric reading or other readings in which the readings are

transferred to other devices (paragraphs 0063-0069). Therefore, McDonnell discloses using configuration data (settings parameters) to configure a distributed device for performing measurement/control function and diffusing the configuration data among a set of distributed devices.

(b) McDonnell does not disclose any data which both (1) configures a distributed device for performing a measurement/control function and (2) is diffused among a set of distributed devices [Appeal Brief pages 6 and 9].

In response, Applicant's argument filed has been fully considered but is not persuasive.

McDonnell discloses a user setting parameters (configuration data) of a mobile entity in order for the device to perform atmospheric reading or other readings in which the readings are transferred to other devices (paragraphs 0063-0069). Therefore, McDonnell discloses using configuration data (settings parameters) to configure a distributed device for performing measurement/control function and diffusing the configuration data among a set of distributed devices.

(c) McDonnell does not disclose any application server [Appeal Brief page 7].

In response, Applicant's argument filed has been fully considered but is not persuasive.

McDonnell discloses a service system (application server) that provides atmospheric reading or other readings in which the readings are transferred to other devices (paragraphs 0063-0069). Therefore, McDonnell discloses application server.

(d) McDonnell does not recite any kiosk or a first and second communication channels for communicating configuration data [Appeal Brief pages 7 and 10].

In response, Applicant's argument filed has been fully considered but is not persuasive.

McDonnell discloses a mobile device in which the kiosk is inherently disclosed in the mobile structure of the device that allows the kiosk to interface the mobile entity. The communication is established between the mobile entities each time the data is being distributed among the devices (paragraphs 0063-0069). Therefore, McDonnell discloses a kiosk or a first and second communication channels for communicating configuration data.

(e) McDonnell does not disclose forming the first communication channel of claim 15 with a kiosk in response to a physical proximity between the first communication device and the kiosk [Appeal Brief pages 7 and 8].

In response, Applicant's argument filed has been fully considered but is not persuasive.

McDonnell discloses a mobile device in which the kiosk is inherently disclosed in the mobile structure of the device that allows the kiosk to interface the mobile entity. The communication is established between the mobile entities each time the data is being distributed among the devices (paragraphs 0063-0069). Therefore, McDonnell discloses forming the first communication channel of claim 15 with a kiosk in response to a physical proximity between the first communication device and the kiosk.

(f) McDonnell does not disclose any means for determining a relative staleness of a set of configuration data stored in a distributed device [Appeal Brief pages 8-10].

In response, Applicant's argument filed has been fully considered but is not persuasive.

McDonnell discloses in paragraph 0079 where the system determines a timestamp and location information of the information. The system tries to verify that the reading has the correct timestamp and the reading was not sent at a later time after the reading was taken which is determining if the reading is stale or not. This information is stored in a database and also in

the mobile entity. Therefore, McDonnell disclose means for determining a relative staleness of a set of configuration data stored in a distributed device and kiosk.

(g) McDonnell does not disclose any means for obtaining from a remotely-located configuration data source a set of configuration data that configures a second device, spaced apart from the first device, for performing a measurement/control function; and means for diffusing the configuration data from the first device to the second device [Appeal Brief pages 10-11].

In response, Applicant's argument filed has been fully considered but is not persuasive.

McDonnell discloses a user setting parameters (configuration data) of a mobile entity in order for the device to perform atmospheric reading or other readings in which the readings are transferred to other devices. The readings are distributed to configure the devices in communication with each other (paragraphs 0063-0069). Therefore, McDonnell discloses means for obtaining from a remotely-located configuration data source a set of configuration data that configures a second device, spaced apart from the first device, for performing a measurement/control function; and means for diffusing the configuration data from the first device to the second device.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/LaShonda T Jacobs/

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